

# Calendar No. 1028

91ST CONGRESS }  
2d Session }

SENATE

{ REPORT  
No. 91-1024

## JAMES GLEN RAMSAY

JULY 15, 1970.—Ordered to be printed

Mr. BURDICK, from the Committee on the Judiciary,  
submitted the following

### REPORT

[To accompany S. 311]

The Committee on the Judiciary, to which was referred the bill (S. 311) for the relief of James Glen Ramsay, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

#### AMENDMENTS

On page 1, line 7, after the word "approve" insert a comma and the following: "in an amount not to exceed \$286.50,".

On page 1, line 9, strike out "Ramsey" and insert in lieu thereof "Ramsay".

On page 2, line 1, strike out "Ramsey" and insert in lieu thereof "Ramsay".

On page 2, line 2, strike out "Ramsey" and insert "Ramsay".

Amend the title of the bill to read: "A bill for the relief of James Glen Ramsay."

#### PURPOSE OF AMENDMENTS

The purpose of the amendments is to correct the spelling of the claimant's name and insert a definite monetary amount of the claim in accordance with the available governmental records.

#### PURPOSE OF THE BILL AS AMENDED

The purpose of the bill as amended is that notwithstanding the provisions of the first section of the act entitled "An act providing for

the barring of claims against the United States", approved October 9, 1940 (54 stat. 1061; 31 U.S.C. 71a(1)), the Secretary of the Army is authorized to receive, consider, and approve in an amount not to exceed \$286.50, any claim filed within 6 months after the date of enactment of this act by James Glen Ramsay (Army Serial No. 224186) of 114 North 11th Street, Miles City, Mont., for a refund of deductions which were made in 1918 and 1919 from the military pay of the said James Glen Ramsay for the support of his mother, Ann Ramsay, and which were not paid to his mother.

#### STATEMENT

The facts of the case in the report of the Veterans' Administration are as follows:

In commenting on S. 3581, an identical 90th Congress bill, the Department of the Army stated that their records show that under the War Risk Insurance Act, as amended, deductions of \$15 per month were made from the Army pay of Mr. Ramsay for a Class B allotment for the period December 1, 1917, through June 25, 1919 (with the exception of \$19 for the month of June 1918).

As Mr. Eggers noted, the Bureau of War Risk Insurance in the Treasury Department (which, among other things, was responsible for the payment of allotments made from the pay of World War I servicemen) was abolished by the act of August 9, 1921 and its powers and duties together with all records associated with the administration of the War Risk Insurance Act were transferred to the then Veterans' Bureau, a predecessor agency of the Veterans' Administration.

For your information, all records relating to the payment, to the families and dependents of enlisted men in the military and naval forces of the United States, of (1) allotments from the pay of such enlisted men for the support of their families and dependents made after October 6, 1917, and prior to the discontinuance of the program on July 31, 1921, and (2) allowances granted by the Federal Government to the families and dependents of such enlisted men, were destroyed under National Archives Job No. 11 NNA 2131, approved June 8, 1956, pursuant to House Report No. 2285, 84th Congress, of the Joint Committee on Disposition of Executive Papers. It is apparent, therefore, that all records relating to the disposition of the money withheld from Mr. Ramsay's pay during the period December 1, 1917, and June 25, 1919, for this purpose are no longer available.

A search of the records of the Comptroller General show that the claimant did in fact have allotted against his pay account the sum of \$286.50 and the bill has been amended accordingly as a protection to the Government. After a complete review of the facts of this case the committee, believes that the equities are in favor of the complainant and accordingly recommends the bill favorably.

Attached hereto and made a part hereof are the departmental reports.

THE GENERAL COUNSEL OF THE TREASURY,  
*Washington, D.C., August 15, 1969.*

HON. JAMES O. EASTLAND,  
*Chairman, Committee on the Judiciary,*  
*U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This responds to your request for the views of the Department of the Treasury on S. 311, "For the relief of James Glen Ramsay."

The proposed legislation would authorize the Secretary of the Army to consider and approve any claim filed within 6 months after date of enactment by James Glen Ramsay for a refund of deductions made in 1918 and 1919 from his military service pay. The Department of the Army has indicated that the subject deductions were made under the terms of the War Risk Insurance Act.

The Bureau of War Risk Insurance, created by the War Risk Insurance Act (38 Stat. 711), was initially established in the Department of the Treasury to insure American vessels and their cargoes against war risks. A subsequent amendment to the act (40 Stat. 402) made provisions for allotments from the pay of servicemen and for the deposit of such allotments into an account in the U.S. Treasury. The Bureau of War Risk Insurance was abolished by the act of August 9, 1921 (42 Stat. 147) and its powers and duties were transferred to the Veterans' Bureau, now the Veterans' Administration.

Since that agency would have jurisdiction over any records associated with administration of the War Risk Insurance Act, including those involving allotments from the pay of military personnel under the terms of the act, as amended, the Department defers to the views of the Veterans' Administration as to the merits of the proposed legislation.

The Department has been advised by the Bureau of the Budget that there is no objection from the standpoint of the administration's program to the submission of this report to your committee. The Bureau of the Budget has requested that we enclose with this report copies of the views letters on S. 311 which it had received from the Veterans' Administration, the Department of the Army, and the General Accounting Office. Copies of those letters are enclosed.

Sincerely yours,

PAUL W. EGGERS,  
*General Counsel.*

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COMPTROLLER GENERAL OF THE UNITED STATES,  
*Washington, D.C., July 16, 1969.*

B-167278

HON. ROBERT P. MAYO,  
*Director, Bureau of the Budget.*

DEAR MR. MAYO: By legislative referral memorandum dated June 19, 1969, the Assistant Director for Legislative Reference, Bureau of the Budget, requests our comments on an enclosed copy of a proposed Department of the Treasury report to the chairman, Committee on the Judiciary, U.S. Senate, on S. 311 for the relief of James Glen Ramsay.

The bill would waive the provisions of the act of October 9, 1940, 54 Stat. 1061, 31 U.S.C. 71a(1), in the case of Mr. Ramsay (Army Serial No. 224186) of 114 North 11th Street, Miles City, Mont., and authorize the Secretary of the Army to receive, consider, and approve any claim filed by him within 6 months after the date of enactment of the bill for a refund of deductions which were made in 1918 and 1919 from his military pay for the support of his mother, Ann Ramsay, which were not paid to her.

Under the act of October 6, 1917, 40 Stat. 402-405, as amended by the act of June 25, 1918, 40 Stat. 609-611, an enlisted man could voluntarily allot any proportion of his monthly pay, after any compulsory allotments to his wife and children, to his mother subject to certain conditions and limitations. In addition to the amount allotted an allowance of \$10 was paid by the Government to her provided that the enlisted man made an allotment to her of from \$5 to \$15, depending on whether he was making an allotment to his wife and children, and his mother was dependent in whole or in part on him. The act provided for an allowance of \$20 to be paid by the Government if there were two dependent parents.

By letter dated July 28, 1967, Mr. Ramsay forwarded his claim to the Treasury Department, Receipts and Disbursement Division, Washington, D.C., for refund of the allotment deductions from his pay, stating that he was inducted into the U.S. Army on June 7, 1917, and was honorably discharged on June 25, 1919. He said that during his service his father was paralyzed and unable to work and that the allotment he authorized to be deducted from his pay for his mother from December 1917 until his discharge was not received by her. Under the provisions of the act of October 9, 1940, our Claims Division returned this claim, which had been forwarded to us for consideration, to Mr. Ramsay by letter of October 25, 1967, together with a copy of the act. On January 25, 1968, our Claims Division again advised Mr. Ramsay that his claim was barred by the act of October 9, 1940, and that our Office has been granted no power of dispensation under this act.

The Honorable Mike Mansfield, majority leader, U.S. Senate, expressed an interest in Mr. Ramsay's claim by letter of September 29, 1967. On November 2, 1967, we sent Senator Mansfield a copy of our letter of October 25, 1967, to Mr. Ramsay which explained the reason our Office is not authorized to take any further action on his claim.

With exceptions not here material, the act of October 9, 1940, provides that every claim or demand cognizable by the General Accounting Office "shall be forever barred unless such claim \* \* \* shall be received in said office within 10 full years after the date such claim first accrued. The enactment of legislation which waives the 1940 act in any situation, no matter how equitable such action may seem establishes an undesirable precedent for all affected persons to seek similar legislation in their favor and could lead eventually to the undermining of the salutary principle of limitation of the time within which claims against the United States may be filed.

Many other individuals, like Mr. Ramsay, were denied payment of their claims because of the barring act. We consistently have recommended against the enactment of legislation which would waive the application of the 1940 act and we do not recommend that S. 311 be favorably considered.



Our records show that a total of \$286.50 was deducted from Mr. Ramsay's pay under a voluntary class B allotment during the period December 1917 to June 1919. These deductions were made at the rate of \$15 per month with the exceptions of June 1918 when \$19 was deducted, and June 1919 when he was honorably discharged and \$12.50 was deducted. However, our records do not show whether these deductions were made in favor of Mr. Ramsey's mother or that she received allotment payments.

It has been our experience in this type of case, where there are available records and a long period of time has elapsed since the payments were made, that the payee generally has received them but has forgotten about it. Since Mr. Ramsay enlisted in June 1917 and the class B allotment was not started until December 1917, it is possible this is the period his mother did not receive the allotment and allowance payments.

If S. 311 should receive favorable consideration we suggest that the bill be amended to provide for payment of an amount not in excess of \$286.50 to Mr. Ramsay, that being the amount which was deducted from his pay on account of a class B allotment. Mr. Ramsay's signature on correspondence relative to his claim and the pay records show his name is spelled Ramsay and not Ramsey as shown in S. 311.

Sincerely yours,

R. F. KELLER,

(For the Comptroller General of the United States).

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WASHINGTON, D.C., *October 30, 1969.*

Hon. QUENTIN BURDICK,  
U.S. Senate Office Building,  
Washington, D.C.

DEAR SENATOR BURDICK: On January 16, 1969 Senator Mansfield introduced S. 311 for the relief of James Glen Ramsay. The bill is procedural.

Ramsay filed a claim in 1967 with the appropriate Government agencies for a refund of deductions made in 1917-19 from his military pay for the support of his mother. These agencies rejected the claim asserting that the 1940 statute of limitations is a bar. (54 Stat. 1061; 31 U.S. Code 71a). We contend that this statute does not apply for reasons herein expounded. Because of the inherent equity and justice of Ramsay's claim, S. 311 removes the asserted technical bar of the 1940 limitation statute.

Ramsay was inducted into the Army on June 17, 1917. His serial number was 224186. He served in France in the years 1917-19 with the 302d Motor Transportation Corps.

Enclosed is a copy of Ramsay's affidavit of May 21, 1968, detailing the facts about his allotment.

Ramsay states that he allotted the sum of \$20 per month from his military pay of \$30 per month for the support of his mother from December 1917 through June 1919; that his father, James G. Ramsay, was paralyzed and unable to support his wife (claimant's mother) during the years 1916-19; that his mother was dependent upon him for her partial support during the years 1916-17; that his mother was so

short of funds in the early part of the year 1916 that she was compelled to obtain, on February 2, 1916, a \$1,900 mortgage on the family home located at 122 North 12th Street, Miles City, Mont.; that this mortgage was obtained from the Custer County Building Association; that his mother died in 1964; that being dependent upon her son, Glen Ramsay, for her partial support at that time made his mother an eligible recipient of his allotment under the provisions of the War Risk Insurance Act of October 6, 1917 as amended (40 Stat. 398; Public Law No. 90). The Government was obliged under this act to match Ramsay's \$20 with a \$10-allotment making a \$30 total monthly allotment to his mother. A Bureau of War Risk Insurance was established in the Treasury Department under this War Risk Act (40 Stat. 398). Congress appropriated by this act the huge sum of \$141 million for the payment of these family allowances (sec. 18).

Section 21 of the War Risk Act (40 Stat. 398) provided specifically as follows:

"That there shall be set aside as a separate fund in the Treasury, to be known as the military and naval pay deposit fund, all sums held out of pay as provided by section two hundred and three of this act. Such fund, including all additions, is hereby made available for the payment of the sums so held and deposited, with interest, as provided in section two hundred and three and the amount necessary to pay interest is hereby appropriated."

Enclosed also are the following documents in support of S. 311: (1) my memorandum to Senator Mansfield of May 25, 1968 in support of a similar bill (S. 3581) which he introduced in the 90th session of Congress and (2) a photostatic copy of the applicable provisions of the War Risk Insurance Act (40 Stat. 398).

The 1940 limitation statute, which the various Government agencies have sought to rely upon to defeat this claim, is obviously irrelevant and inapplicable.

The War Risk Insurance Act (40 Stat. 398 of October 6, 1917) is plainly the only applicable and controlling statute, particularly its provisions relating to the establishment and maintenance of a military "pay deposit fund" in which "all sums held out of pay" were to be deposited and held and all such sums were to draw interest and "the amount necessary to pay interest" was specifically appropriated.

Under sections 21 and 203 of this act, the Government is obliged to pay Ramsay the total accumulated sum withheld from his pay with interest.

The various Government agencies now admit that the Army deducted allotment moneys from Ramsay's military pay from December 1, 1917 to June 25, 1919. See copies of letters enclosed as follows: from the office of General Counsel of the Veterans' Administration to the Director of the Budget dated May 29, 1969; from the General Counsel of the Treasury to the chairman of the Senate Judiciary Committee dated August 15, 1969; and from the Controller General to Robt P. Maye, Director, Bureau of the Budget dated July 16, 1969. It is noteworthy that up until now the Government agencies named have denied having any records showing deductions from Ramsay's military pay during the period in question. Please observe, therefore, the following concession of fact contained in the Controller General's letter of July 16, 1969 to the Director of the Bureau of the Budget:

"Our records show that a total of \$286.50 was deducted from Mr. Ramsay's pay under a voluntary class B allotment during the period December 1917 to June 1919. These deductions were made at the rate of \$15 per month with the exception of June 1918 when \$19 was deducted and June 1919 when he was honorably discharged and \$12.50 was deducted. However, our records do not show whether these deductions were made in favor of Mr. Ramsay's mother or that she received allotment payments."

I want you to know Senator that I obtained this belated Government admission only through your good offices and those of your legislative assistant, Hugh J. Kelly. Mr. Kelly arranged an appointment for me with Mr. George Green of the Senate Judiciary Committee staff. As a result of my conference with Mr. Green in mid-September, the various agency letters above mentioned were made available. Please accept our thanks for this timely assistance.

Mr. Green informed me that if we agree to the Government's figure of \$286.50, in place of Ramsay's figure of \$360, the bill can be amended to that extent as suggested in the last paragraph of the Controller General's letter of July 16, 1969.

To avoid further controversy and to resolve the issue of fact as suggested by the Controller General, and in a spirit of compromise, my client has agreed to accept the Government's figure of \$286.50.

Mr. Green informed me that should you, as a member of the Judiciary Committee, authorize on our behalf this amendment of the bill as stated there should be no difficulty in its passage. My client would appreciate it if you would take such action.

The Bureau of War Risk Insurance and the Commissioner-Custodian of the Ramsay deposit fund presumably had the right to return this fund to Ramsay at any time. However, the custodian chose not to do so. Ramsay, as the owner of the funds, had the right to leave them to accumulate interest as he chose to do. He had the right to rely upon the solvency and continuing responsibility of the Government agency designated as the custodian of his funds. There was no termination date of custodianship in section 203 of the Act. The obligation of the Government to return his funds to Ramsay only accrued when the owner, Ramsay, demanded their repayment in 1967.

If section 203 of the War Risk Insurance Act of 1917 (40 Stat. 398) had specified that the allotment moneys from military pay be deposited in a specified bank account to draw the statutory interest rate of 4 percent, no one could claim that there would be any hardship in compelling the bank to return the escrowed total sum plus interest when demand was made by the owner for its return. Why should the Government be relieved from similar responsibility when it is the stakeholder?

I am now staying at my winter home in Florida. The address is 1893 South Ocean Drive, Hallandale, Fla. 33009. Please address your reply to me at this address.

Sincerely yours,

CHARLES C. PEARCE,  
*Counselor at Law.*

STATE OF MONTANA,  
County of Custer, ss:

J. Glen Ramsay, being duly sworn, deposes and says: I reside at 144 North 11th Street, Miles City, Mont.; I was inducted into the Armed Forces of the United States of America on June 7, 1917; my serial number was 224186; I was officially attached to the 302 Motor Transportation Corps.

In accordance with U.S. statutes and regulations then in full force and effect, I made a written allotment to my mother of the sum of \$20 per month to be deducted from my military pay of \$50 per month from December 1917 to June 25, 1919, while I was in service as an enlisted man in France during 18-month period; said allotment of \$20 of my pay to my mother was to be matched by an equal sum of \$20 to be paid to my mother by the Government and said total allotment of \$40 per month was required, by said U.S. statutes and regulations, to be remitted monthly to my mother, Mrs. Annie L. Ramsay, at 122 North 12th Street, Miles City, Mont.; upon information and belief, my mother never received any part of these allotted funds; my father, James G. Ramsay, was paralyzed and unable to support his wife (my mother) during the years 1917-19; my father died in the year 1921; my mother was dependent on me for her partial support during the years 1916-1917; my mother was so short of funds in the early part of the year 1916 that she was compelled to obtain, on February 2, 1916, a \$1,900 mortgage on the family home; this recorded mortgage was obtained by her from the Custer County Building Association on that date; my mother died in the year 1964; and finally I wish to state that all efforts on my part have failed to obtain the return to me of even the principal of said allotted funds in the amount of \$360 although, one-eighteenth of the latter amount was regularly deducted from my military pay at the rate of \$20 per month and retained by the U.S. Government.

J. GLEN RAMSAY.

Subscribed and sworn to before me this 21st day of May, 1968.

PAUL E. MOTTRAM,

*Notary Public for the State of Montana.*

MEMORANDUM FOR MAJORITY LEADER, HON. MIKE MANSFIELD, OF THE U.S. SENATE, IN SUPPORT OF A PRIVATE RELIEF BILL FOR J. GLEN RAMSAY OF MILES CITY, MONT., IN THE AMOUNT OF \$360

1. The deduction of \$20 per month for 18 months from Mr. Ramsay's pay as a private in the U.S. Army during World War I is established by the uncontradicted sworn statements of the claimant in his affidavit verified on May 21, 1968.

2. The letter from Col. J. L. Blackwell, General Services Office, Chief of Legislative Liaison, Department of the Army, to Senator Mansfield, dated January 15, 1968, shows conclusively that Mr. Ramsay was entitled to make a voluntary award to his mother, as a class B member of his family, of not to exceed \$50 per month on and after November 1, 1917 (sec. 204, class B, of October 6, 1917, of the act known as 40 Stat. 398).

3. Under section 206 of the act of October 6, 1917 (40 Stat. 398), it is provided that "family allowances to members of class B shall be



granted only if and while the member is dependent in whole or in part on the enlisted man."

4. Under section 207 of this act of October 6, 1917, it is provided that the total monthly allowance to a mother shall not exceed the average sum habitually contributed by the enlisted man to her support during the period of dependency but not exceeding a year immediately preceding his enlistment or the enactment of the act.

5. The evidence shows that Mr. Ramsay's father was paralyzed and unable to support himself or his wife during the period in question—December 1917 to June 25, 1919.

6. The evidence further shows that Mr. Ramsay's mother was so short of funds as required her to obtain a \$1,900 mortgage on her home on February 2, 1916. This recorded mortgage was procured by her from the Custer County Building Association on that date.

7. The evidence further shows that Mr. Ramsay contributed an average of at least \$20 per month toward his mother's support during the period June 7, 1916, to December 1917, the latter being the date of his mother's allotment. Consequently Mr. Ramsay was entitled to make his allotment of \$20 per month to his mother.

8. Under section 204 of the act of October 6, 1917 (40 Stat. 398), it is provided that the family allowance "shall be paid from the time of allotment to death in or 1 month after discharge from the service."

9. Under section 203 of the act of October 6, 1917 (40 Stat. 398), it is provided significantly that if one-half of an enlisted man's pay is not allotted such sum "shall be deposited to his credit, to be held during such period of his service as may be prescribed." This section further provides that "any proportion" of such pay as is not allotted is required to be deposited to the enlisted man's credit and: "Such deposits shall bear interest at the rate of 4 per centum per annum, with semi-annual rests and, when payable, shall be paid principal and interest to the enlisted man, if living, otherwise to any beneficiary or beneficiaries he may have designated, or if there be no such beneficiary, then to the person or persons who would under the laws of the State of his residence be entitled to his personal property in case of intestacy."

10. Under section 203 of the new act of June 25, 1918 (40 Stat. 609), the provisions of the act of October 6, 1917 (40 Stat. 398), were reenacted in substance except as to the interest rate on the deposit to the enlisted man's credit which "shall bear interest at the same rate as U.S. bonds bear for the same period."

11. Under the provisions of section 203 of both acts (40 Stat. 398 and 40 Stat. 609) the Government covenanted that the unallotted principal funds to the credit of the enlisted man should bear interest at the rate of at least 4 percent per annum. Four-percent interest on the Ramsay unallotted funds compounded would produce in the year 1967 the very substantial sum of upward of \$100,000. Under the provisions of section 203 of both acts, the U.S. Government became a depository-trustee of Ramsay's unallotted funds. The statutes imposed a continuing obligation upon the Government to safely guard these funds for the enlisted man and to pay these funds over to him upon his demand. Since the Government has never denied or repudiated its statutory duty to preserve and account for these funds, the duty to repay these funds to the enlisted man upon his demand still exists.

12. Even in the absence of statute, Federal law requires the Government to make reasonable compensation for its unauthorized seizure of private property. The U.S. Court of Appeals for the District of Columbia held in the case of *Smith v. Snyder* 181 F. 2d 278 (1950) that "whenever the United States seizes private property there is an implied obligation to pay for it."

12. The contention of the General Accounting Office that this claim is barred by the 10-year statute of limitations (Public Law 82 of October 9, 1940) is an invalid defense to this claim for the following reasons:

(a) The U.S. Government never denied or repudiated its statutory duty to preserve Ramsay's accumulated and unallotted funds and to pay them to him upon his request while he is living;

(b) Mr. Ramsay did not demand the payment of these accumulated funds to him until the year 1967 when the Government's refusal to repay these sums to him gave rise to a cause of action based upon such refusal.

13. The merits of this claim justify a private relief bill in behalf of Mr. Ramsay.

Respectfully submitted,  
May 25, 1968.

CHARLES C. PEARCE,  
*Attorney for Claimant.*

DEPARTMENT OF THE ARMY,  
July 16, 1969.

HON. ROBERT P. MAYO,  
*Director, Bureau of the Budget.*

DEAR MR. MAYO: Reference is made to your June 4, 1969, request for the comments of the Department of the Army on S. 311, 91st Congress, a bill "For the relief of James Glen Ramsay," and the Department of the Treasury report thereon.

This bill provides, "That, notwithstanding the provisions of the first section of the Act entitled 'An Act providing for the barring of claims against the United States', approved October 9, 1940, (54 Stat. 1061; 31 U.S.C. 71a (1)), the Secretary of the Army is authorized to receive, consider, and approve any claim filed within six months after the date of enactment of this Act by James Glen Ramsay (Army Serial Number 224186) of 114 North 11th Street, Miles City, Montana, for a refund of deductions which were made in 1918 and 1919 from the military pay of the said James Glen Ramsay for the support of his mother, Ann Ramsay, and which were not paid to his mother."

The Department of the Army has considered the bill.

Department of the Army records disclose that "James G. Ramsey" is in fact James G. Ramsay who enlisted in the Army on June 27, 1917, and, after approximately 17 months of service in France, was discharged at Mitchell Field, N.Y., on June 25, 1919.

The act of September 2, 1914, ch. 293 (38 Stat. 711), as amended by the act of October 6, 1917, ch. 105 (40 Stat. 398), and the act of June 25, 1918, ch. 104 (40 Stat. 609), authorized the establishment of a Bureau of War Risk Insurance in the Treasury Department. Under section 202 of the act, Army enlisted men were permitted to allot, subject to limi-

tations and conditions prescribed by the Secretary of War, portions of their pay for the benefit of certain persons. Sections 204 and 206 of the act provide for a family allowance, not exceeding \$50 per month, to be paid to certain persons, by the United States, upon written application by an enlisted man and approval by the Bureau of War Risk Insurance. As a condition precedent to payment of the family allowance to a person in class B, the enlisted man was required to make "a monthly allotment of his pay for such (class B) member or members equal to the amount of the monthly family allowance \* \* \*" specified in section 206. Section 210 of the act provides that "upon receipt of any application for family allowance the commissioner (Commissioner of Military and Naval Insurance, Bureau of War Risk Insurance, Treasury Department) shall make all proper investigations and shall make an award, on the basis of which award the amount of the allotments to be made by the man shall be certified to the War Department \* \* \*."

Department of the Army records show that, under the act of September 2, 1914, as amended, *supra*, allotment deductions of \$15 per month were made from Ramsay's Army pay for a Class B allotment for the period from December 1, 1917, through June 25, 1919, with the exception of a deduction of \$19 for the month of June 1918.

On July 28, 1967, Mr. Ramsay submitted a claim to the Treasury Department, apparently claiming that he was never paid the money withheld from him nor was the allotment or family allowance paid to his mother, the allottee. The Treasury Department referred the claim to the Army Finance Center which, in turn, referred the matter to the General Accounting Office. On October 25, 1967, the General Accounting Office, as required by the act of October 9, 1940, ch. 788 (54 Stat. 1061, 31 U.S.C. 71a) returned Mr. Ramsay's claim to him, advising that his claim was barred because it was not filed within 10 years after it accrued.

Department of the Army records do not show the beneficiary of Mr. Ramsay's allotment nor that the allotment and an approved family allowance were paid, but, as previously stated, show that deductions were made from his Army pay for a Class B allotment from December 1, 1917, through June 25, 1919. It is assumed that the amount of the allotment was paid by the War Department to the Treasury Department, as prescribed by the Act of October 6, 1917, *supra*. Army records do not show whether Mr. Ramsey was reimbursed for the amount of the allotment deducted from his pay, which he claims were never paid to the beneficiary, and the Department of the Army has no information concerning payments or reimbursements by the Treasury Department.

The general administration of the act of October 6, 1917, *supra*, was vested in the Treasury Department, through the Bureau of War Risk Insurance, with provision for the cooperation of other departments of the Government. Section 209 of the act provides that the "War and Navy Departments, respectively, shall pay over to the Treasury Department monthly the entire amount of such allotments for distribution to the beneficiaries, and the allotments and family allowances shall be paid by the Bureau [Bureau of War Risk Insurance, Treasury Department] to or for the beneficiaries."

The Department of the Army has learned that the claimant contends that, subject to regulations by the Secretary of War, the unpaid

allotted funds should have been "deposited to this credit, to be held during such period of his service as may be prescribed," and that "such deposits shall bear interest at the rate of 4 per centum per annum" in accordance with section 203 of the act of October 6, 1917, *supra*. The amendment of section 203 by the act of June 25, 1918, *supra*, provides that, instead of 4 per centum per annum, such deposits "shall bear interest at the same rate as U.S. bonds bear for the same period \* \* \*". Section 203 of the act provides for interest at the stated rates. The interest, however, was not on sums allotted and not paid. A soldier could draw, while overseas, only one-half his pay, if departmental regulations so provided. The soldier could allot the other half of his pay or it would be withheld and deposited to his account with the Treasury Department. The interest mentioned in section 203 of the act was on this unallotted pay which was involuntarily withheld and deposited to the soldier's account with the Treasury Department.

The interest provisions of the act, therefore, have no application to Ramsay's claim, except as a guide as to whether interest in any amount should be allowed Ramsay. For precedent in this area see the legislative history of Private Law 85-553 (H.R. Rep. No. 1753, 85th Congress, 2d sess. 1958). In that case, a total of \$248.29 was withheld from the pay of a member of the Army, under a class E allotment authorization, during the period from February 1, 1946, through October 31, 1946, but was not paid to the designated allottee. Under Private Law 85-553, the Secretary of the Treasury was authorized and directed, in 1958, to pay the former enlisted member of the Army \$248.29 without interest.

As the Department of the Army has no information concerning payment of allotment and family allowance to Mr. Ramsay's beneficiary, under the War Risk Insurance Act, and as the responsibility for these payments was conferred by the Congress on the Treasury Department, the Department of the Army expresses no opinion as to the merits of the bill. The Department of the Treasury report on S. 311, states that that Department does not have jurisdiction over the appropriate records and accordingly defers to the views of the Veterans' Administration which agency does have such jurisdiction. The Department of the Army has no objection to the Department of the Treasury report on S. 311.

Sincerely,

STANLEY R. RESOR,  
*Secretary of the Army.*

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